

203(a)(2) of the transitional provisions). The agency further concludes that because the provisionally listed uses of this color additive do not represent an acute hazard, and because the agency will make a decision on these uses on or before December 2, 1983, no harm to the public health will result from this brief extension.

Because of the short time until the October 2, 1983 closing date, FDA concludes that notice and public procedure on this regulation are impracticable, and that good cause exists for issuing this postponement as a final rule. This final rule will permit the uninterrupted use of this color additive until December 2, 1983. To prevent any interruption in the provisional listing of FD&C Red No. 3 and in accordance with 5 U.S.C. 553(d) (1) and (3), this final rule is being made effective on October 2, 1983.

List of Subjects in 21 CFR Part 81

Color additives, Color additives provisional list, Cosmetics, Drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 701, 706 (b), (c) and (d), 52 Stat. 1055-1056 as amended, 74 Stat. 399-403 (21 U.S.C. 371, 376 (b), (c), and (d))) and under the transitional provisions of the Color Additive Amendments of 1960 (Title II, Pub. L. 86-618, sec. 203, 74 Stat. 404-407 (21 U.S.C. 376, note)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), Part 81 is amended as follows:

PART 81—GENERAL SPECIFICATIONS AND GENERAL RESTRICTIONS FOR PROVISIONAL COLOR ADDITIVES FOR USE IN FOODS, DRUGS, AND COSMETICS

§ 81.1 [Amended]

1. In § 81.1 *Provisional lists of color additives*, by revising the closing dates for "FD&C Red No. 3" in paragraph (a) to read "December 2, 1983."

§ 81.27 [Amended]

2. In § 81.27 *Conditions of provisional listing*, by revising the closing date for "FD&C Red No. 3" in paragraph (d) to read "December 2, 1983."

Effective date. This final rule is effective October 2, 1983.

(Secs. 701, 706 (b), (c), and (d), 52 Stat. 1055-1056 as amended, 74 Stat. 399-403 (21 U.S.C. 371, 376 (b), (c), and (d)); sec. 203, 74 Stat. 404-407 (21 U.S.C. 376, note))

Dated: September 29, 1983.

Mark Novitch,

Acting Commissioner of Food and Drugs.

[FR Doc. 83-27063 Filed 9-30-83; 1:33 pm]

BILLING CODE 4160-01-M

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

27 CFR Part 9

[T.D. ATF-147; Ref: Notice No. 456]

Establishment of Fiddletown Viticultural Area

AGENCY: Bureau of Alcohol, Tobacco and Firearms, Treasury.

ACTION: Final rule, Treasury decision.

SUMMARY: This final rule establishes a viticultural area in Amador County, California, to be known as "Fiddletown." The Bureau of Alcohol, Tobacco and Firearms (ATF) believes the establishment of "Fiddletown" as a viticultural area and subsequent use as an appellation of origin on wine labels and in wine advertisements will allow wineries to better designate the specific grape-growing area where their wines come from and will enable consumers to better identify the wines they may purchase.

EFFECTIVE DATE: November 3, 1983.

FOR FURTHER INFORMATION CONTACT: James A. Hunt, FAA, Wine and Beer Branch, Bureau of Alcohol, Tobacco and Firearms, Washington, DC 20226 (202-566-7626).

SUPPLEMENTARY INFORMATION:

Background

On August 23, 1978, ATF published Treasury Decision ATF-53 (43 FR 37672, 54624) revising regulations in 27 CFR Part 4 allowing establishment of definite viticultural areas. These regulations also allow the name of an approved viticultural area to be used as an appellation of origin in wine labeling and advertising.

Section 9.11, Title 27, CFR, defines an American viticultural area as a delimited grape-growing region distinguishable by geographical characteristics. Section 4.25a(e)(2) outlines the procedure for proposing an American viticultural area. Any interested person may petition ATF to establish a grape-growing region as a viticultural area.

The Fiddletown Wine Grape Growers in Amador County, California, petitioned ATF to establish a viticultural area to be known as "Fiddletown." In

response to this petition, ATF published a notice of proposed rulemaking, Notice No. 456, in the *Federal Register* on February 15, 1983 (48 FR 6724), proposing the establishment of Fiddletown as a viticultural area.

Historical and Current Evidence of the Name

The petitioner submitted evidence to show that the name "Fiddletown" is well known because of its inclusion in a story by Bret Harte. It is the name given to an Amador County community at its settlement during the 1850 gold rush. The town's name was changed to "Oleta" for a brief period and then restored to "Fiddletown" in 1920. Several nationally known wines have been distributed bearing the Fiddletown area name since the early 1970's.

Geographical Features

The petitioner submitted evidence to show that the proposed area differs from the neighboring Shenandoah Valley of California viticultural area because of its higher elevations of 1500 to about 2500 feet, colder nighttime temperatures and a higher rainfall of 30 to 40 inches per year. The area surrounding the north and east boundaries is above 2500 feet and for the most part, too rugged a terrain and too cold for growing grapes.

The summer daytime temperatures range from the eighties to one hundred degrees and nights are cool from breezes from the surrounding mountains. The grapes are grown without any irrigation and vines produce from 1 1/2 to 3 tons per acre. Most of the grapes are grown on the southern and western rolling slopes of the hills in the area where the soil is a deep loam of decomposed granite. The soils of the Fiddletown viticultural area are Sierra-Ahwahee and Sites series which are deep, moderately well drained and consist of loams or sandy loams.

Comments

Five comments were received from wine industry members supporting the Fiddletown viticultural area. In the notice of proposed rulemaking the question of reducing the viticultural area size was raised since this area of approximately 11,500 acres contains only 310 acres of vineyards. Two of the comments strongly opposed reducing the size of the area because there are approximately 1,000 acres suitable for vineyard development and the present 310 acres of vineyards are scattered throughout the Fiddletown viticultural area.

Because of the evidence received, ATF is accepting the Fiddletown

viticultural area boundaries as stated in the notice of proposed rulemaking.

Miscellaneous

ATF does not wish to give the impression by approving Fiddletown as a viticultural area that it is approving or endorsing the quality of the wine from this area. ATF is approving this area as being distinct and not better than other areas. By approving the area, wine producers are allowed to claim a distinction on labels and advertisements as to origin of the grapes. Any commercial advantage gained can only come from consumer acceptance of Fiddletown wines.

Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act relating to a final regulatory flexibility analysis (5 U.S.C. 604) are not applicable to this final rule because it will not have a significant economic impact on a substantial number of small entities. The final rule is not expected to have significant secondary or incidental effects on a substantial number of small entities.

Accordingly, it is hereby certified under the provisions of Section 3 of the Regulatory Flexibility Act (5 U.S.C. 605(b)), that this final rule will not have a significant economic impact on a substantial number of small entities.

Executive Order 12291

In compliance with Executive Order 12291, 46 FR 13193 (1981), ATF has determined that this final rule is not a "major rule" since it will not result in—

- (a) An annual effect on the economy of \$100 million or more;
- (b) A major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or
- (c) Significant adverse effects on competition, employment, investment, productivity, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Paperwork Reduction Act

The provisions of the Paperwork Reduction Act of 1980, Pub. L. 96-511, 44 U.S.C. Chapter 35, and its implementing regulations, 5 CFR Part 1320, do not apply to this final rule because no requirement to collect information is imposed.

Disclosure

A copy of the petition and the comments received are available for inspection during normal business hours at the following location:

ATF Reading Room, Rm. 4407, Office of Public Affairs and Disclosure, 12th and Pennsylvania Ave., NW, Washington, D.C.

List of Subjects in 27 CFR Part 9

Administrative practice and procedure, Viticultural areas, Consumer protection, Wine.

Drafting Information

The principal author of this document is James A. Hunt, FAA, Wine and Beer Branch, Bureau of Alcohol, Tobacco and Firearms.

Authority

Accordingly, under the authority contained in Section 5 of the Federal Alcohol Administration Act (49 Stat. 981, as amended; 27 U.S.C. 205), 27 CFR Part 9 is amended as follows:

PART 9—AMERICAN VITICULTURAL AREAS

Paragraph 1. The table of sections in 27 CFR Part 9, Subpart C, is amended to include the title of § 9.81 as follows:

Subpart C—Approved American Viticultural Areas

Sec.	
9.81	Fiddletown.

Par. 2. Subpart C is amended by adding § 9.81 to read as follows:

Subpart C—Approved American Viticultural Areas

§ 9.81 Fiddletown.

(a) *Name.* The name of the viticultural area described in this section is "Fiddletown."

(b) *Approved map.* The approved maps for the Fiddletown viticultural area are the U.S.G.S. maps entitled "Fiddletown Quadrangle California," "Amador City Quadrangle California," "Aukum Quadrangle California," and "Pine Grove Quadrangle California," 7.5 minute series (topographic), 1949-1962.

(c) *Boundaries.* The Fiddletown viticultural area is located in Amador County, California. The boundaries are as follows:

(1) From the beginning point at the north boundary where Fiddletown Shenandoah Road crosses Big Indian Creek in Section 28, Township 8 N, Range 11 E, proceed in a southwesterly direction following Big Indian Creek through the southeast corner of Section 29, crossing the northwest corner of Section 32 to where it meets Section 31;

(2) Then in a southerly direction follow the Section line between Sections 31 and 32, Township 8 N, Range 11 E, and Sections 5 and 6, 7 and 8, Township 7 N, Range 11 E, to where the Section line meets the South Fork of Dry Creek;

(3) Then following the South Fork of Dry Creek in an easterly direction crossing the lower portions of Sections 8, 9, 10, 11, 12 and into Township 8 N, Range 12 E, at Section 7 and across Section 7 to where it meets Section 8;

(4) Then north following the Section line between Sections 7 and 8, 5 and 6 into Township 8 N, Range 12 E, between Sections 31 and 32, to Big Indian Creek; and

(5) Then following Big Indian Creek in a northwesterly direction through Sections 31, 30, 25, 26 and 27, returning to the point of beginning.

Signed: September 2, 1983.

Stephen E. Higgins,

Director.

Approved: September 14, 1983.

David Q. Bates,

Deputy Assistant Secretary (Operations).

[FR Doc. 83-27009 Filed 10-3-83; 8:45 am]

BILLING CODE 4810-31-M

[T.D. ATF-148; Ref: Notice No. 448]

27 CFR Part 9

Establishment of Paso Robles Viticultural Area

AGENCY: Bureau of Alcohol, Tobacco and Firearms (ATF), Department of the Treasury.

ACTION: Treasury decision, final rule.

SUMMARY: This Treasury decision establishes a viticultural area in San Luis Obispo County, California, to be known as "Paso Robles." The petition was submitted by Martin Brothers Winery.

ATF believes the establishment of American viticultural areas and their subsequent use as appellation of origin in wine labeling and advertising allows wineries to better designate the specific grape-growing area where their wines come from and allows consumers to better identify the wines they purchase.

EFFECTIVE DATE: November 3, 1983.

FOR FURTHER INFORMATION CONTACT: Roger Bowling, FAA, Wine and Beer Branch, Bureau of Alcohol, Tobacco and Firearms, Washington, DC 20226, (202) 566-7626.

SUPPLEMENTARY INFORMATION:**Background**

On August 23, 1978, ATF published Treasury Decision ATF-53 (43 FR 37672, 54624) revising the wine labeling regulations in 27 CFR Part 4. These regulations allow the establishment of definite viticultural areas, and allow the name of an approved viticultural area to be used as an appellation of origin on wine labels and in wine advertising.

On October 2, 1979, ATF published Treasury Decision AFT-60 (44 FR 56692) adding a new Part 9 to 27 CFR for the listing of approved American viticultural areas.

27 CFR 9.11 defines an American viticultural area as a delimited grape-growing region distinguishable by geographic features. 27 CFR 4.25a(e)(2) outlines the procedures for proposing an American viticultural area. Any interested person may petition ATF to establish a grape-growing region as a viticultural area. The petition must include:

(a) Evidence that the name of the proposed area is locally and/or nationally known as referring to the area specified in the petition.

(b) Historical or current evidence that the boundaries of the proposed area are as delineated in the petition.

(c) Evidence relating to the geographical characteristics (climate, soil, elevation, physical features, etc.), which distinguish the viticultural features of the proposed area from the surrounding areas.

(d) A description of the proposed boundaries of the proposed viticultural area, based on features found on United States Geological Survey (U.S.G.S.) maps of the largest applicable scale.

(e) A copy of the appropriate U.S.G.S. map with boundaries prominently marked.

Rulemaking Process for Paso Robles Viticultural Area

The petition for the establishment of the "Paso Robles" viticultural area was filed by Martin Brothers Winery and was accompanied by signatures of the grape-growers and wineries of the proposed area. ATF believed the petition contained the necessary elements with sufficient evidence to warrant a notice of proposed rulemaking.

ATF published Notice No. 448 on January 17, 1983 (48 FR 1985), proposing the establishment of the Paso Robles viticultural area. One comment was received concerning portions of the western boundaries.

General Information

Wine grapes have been grown in the Paso Robles area since the founding of

the California missions. Mission San Miguel, founded in 1797, produced wine and it is assumed that the grapes were harvested in nearby areas. The records of the San Luis Obispo County assessor's office show grape plantings of the county and presumably most of the plantings were within the boundaries of the proposed viticultural area. The earliest date was 1873 showing that approximately 40 acres were in vineyards.

One winery established in the last century is still involved in wine production. Rotta Winery, now Las Tablas Winery (1890). In addition to this winery, there are twelve others and one under construction. There are currently 62 existing vineyards in the Paso Robles viticultural area comprising approximately 5,000 acres with more grape plantings planned, generally adjacent to or in close proximity to the existing vineyards. The area comprises approximately 614,000 acres.

In 1914, Ignace Paderewski, the famous Polish pianist, conductor, and statesman, established a vineyard on his ranch. The Zinfandel grape was introduced to the area in this vineyard. Wine produced by York Mountain Winery from this vineyard was awarded a gold medal at the California State Fair.

Evidence Relating to the Name

The name of the area dates from the late 18th Century, the missionary period of the area. The full Spanish name is "El Paso de Robles" or "the Pass of the Oaks." This name was given by travelers between the mission of San Miguel, located within the boundaries of the viticultural area, and Mission San Luis Obispo. A land grant, in this name, was conveyed by Governor Micheltorena to Pedro Narvaez on May 12, 1844. This land grant includes the present areas of Paso Robles, Templeton, and Adelaida. The land grant was patented on July 20, 1866, to Petronillo Rios.

In 1857 the Paso Robles land grant was purchased by three men. These men, capitalizing on the hot springs and mud baths of the area, set out to make the Paso Robles Hot Springs one of the finest resort spas in the Country and built the first of the famous hotels. The community serving the hotel and resort visitors was incorporated as the City of El Paso de Robles on February 25, 1889. Since that time, the entire area of the viticultural area has been referred to as the Paso Robles area.

There are numerous streams, hills, and small rural areas within this general area known by other names, however, the one unifying name of the entire area is "Paso Robles."

ATF believes this evidence supports adopting "Paso Robles" as the name of the viticultural area.

Geographical Characteristic

The Paso Robles viticultural area is generally characterized by rolling hills and valleys with an average elevation between 600 and 1,000 feet. The soils of the area are generally alluvial and terrace deposits, usually fertile and well-drained.

The area is bounded on the west and south by the Santa Lucia Mountain range whose crest averages between 2,300 and 2,850 feet. The Cholame Hills to the east crest at about the 3,000-foot elevation. The Salinas River has its headwaters at Santa Margarita Lake just south of the proposed boundary and flows northward through the proposed area into the Salinas Valley located in Kings and Monterey Counties. The Salinas River is the major drainage of the area, although it is also characterized by numerous creeks and streams.

The area is protected from marine air intrusion and coastal fogs by the Santa Lucia Mountains on the west and south. This is a marked contrast to the area to the west and south where such coastal fogs are common with cooler temperatures in the summer months.

The Paso Robles viticultural area is classified as Region III, with 3,001 to 3,500 degree days of heat. This characterizes the proposed area with a warmer climate by 500 to 1,000 degree days than the area to the west and south, and a cooler climate by 500 or more degree days than the area lying to the east.

Rainfall within the area averages between 10 and 25 inches annually. Rainfall within the area is highest on the crest of the Santa Lucia Mountain range and decreases regularly to the east. Growers generally augment the rainfall by irrigation from wells and reservoirs.

The area has a diurnal (beginning and ending of the day) temperature change of 40 to 50 degrees. This results from low to moderate humidity which is conducive to radiant cooling of the land surface. Regular afternoon winds disturb the local inversions, thereby promoting radiative cooling.

The area to the west and south of the Paso Robles viticultural area has a diurnal fluctuation of between 20 and 30 degrees caused by the flow of cool, moist marine air accompanied by fog intrusions. The area east of the area has a climate associated with the San Joaquin Valley, that is, less radiative cooling, more stable inversions, and higher evening temperatures.

Boundaries

The boundaries of the Paso Robles area are characterized by township and range lines, the county line, and straight lines from points of reference. The petitioner stated that these boundary descriptions are the most practical approximation of the ridge lines that enclose the viticultural area. During the comment period, one commenter raised an objection to the western boundary. As proposed, the boundary included portions of the proposed York Mountain viticultural area. The commenter stated that the York Mountain area was distinguishable from the Paso Robles area. The petitioner for the Paso Robles viticultural area then amended the western boundary to begin at the next most eastern range line and then along the boundary of the old Paso Robles land grant. This amendment accomplished the exclusion of the proposed York Mountain viticultural area and further removed mountainous areas, thus delineating a more distinguishable grape-growing area and reducing the area by approximately 23,000 acres. ATF concurs with this amendment.

Subsequent to this amendment, ATF requested the petitioner to attempt to delineate the entire area by means of other than county, range, and township lines, in other words, by physical features. The petitioner consulted with the growers, vintners, and engineering advisors. The response to ATF was that there is no feasible method to delineate the boundaries by using physical features such as streams, roads, contour lines, etc. The petitioner further stated that although county, range, and township lines are used, these lines serve as the closest and most practical approximation of the ridge lines that enclose the Paso Robles viticultural area.

ATF does not encourage the use of county, range, and township lines to delineate a viticultural area. Where such features or lines closely approximate the boundaries of a geographically distinguishable area, ATF has, in the past, adopted such boundary delineations. Therefore, ATF is adopting the use of county, range, and township lines to delineate the boundaries of the Paso Robles viticultural area. A detailed description of the boundaries is found in the regulation section of this final rule.

The points of reference for the boundaries of the proposed Paso Robles viticultural area are found on one U.S.G.S. map entitled: "San Luis Obispo," scale 1: 250,000.

Executive Order 12291

In compliance with Executive Order 12291 (46 FR 13193 (1981)), ATF has determined that this final rule is not a "major rule" since it will not result in:

- (a) An annual effect on the economy of 100 million dollars or more;
- (b) Major increases in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or
- (c) Significant adverse effects on competition, employment, investments, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act relating to an initial and final regulatory flexibility analysis (5 U.S.C. 603, 604) are not applicable to this final rule because it will not have a significant economic impact on a substantial number of small entities. The final rule is not expected to: have significant secondary or incidental effects on a substantial number of small entities or impose, or otherwise cause a significant increase in the reporting, recordkeeping, or other compliance burdens on a substantial number of small entities.

Paperwork Reduction Act

The provisions of the Paperwork Reduction Act of 1980, Pub. L. 96-511, 44 U.S.C. Chapter 35, and its implementing regulations, 5 CFR Part 1320, do not apply to this final rule because no requirement to collect information is imposed.

Disclosure

Copies of the petition, the map, the notice, this final rule, and all comments are available for public inspection during normal business hours at: Office of Public Affairs and Disclosure, Room 4405, 12th & Pennsylvania Avenue, NW, Washington, DC.

Drafting Information

The principal author of this document is Roger Bowling, FAA, Wine and Beer Branch.

List of Subjects in 27 CFR Part 9

Administrative practice and procedures, Consumer Protection, Viticultural areas, and Wine.

Authority and Issuance

Accordingly, under the authority contained in section 5 of the Federal Alcohol Administration Act, 49 Stat. 981,

as amended, 27 U.S.C. 205, 27 CFR Part 9 is amended as follows:

PART 9—AMERICAN VITICULTURAL AREAS

Paragraph 1. The table of sections in Subpart C is amended to add § 9.84 to read as follows:

Subpart C—Approved American Viticultural Areas

Sec.

• • • • •
9.84 Paso Robles.

Paragraph 2. Subpart C is amended to add a new section, § 9.84, to read as follows:

Subpart C—Approved American Viticultural Areas

• • • • •
§ 9.84 Paso Robles

(a) *Name.* The name of the viticultural area described in this section is "Paso Robles".

(b) *Approved map.* The map showing the boundaries of the Paso Robles viticultural area is: "San Luis Obispo", NI 10-3, scale 1:250,000 (1956, revised 1969).

(c) *Boundaries.* The Paso Robles viticultural area is located within San Luis Obispo County, California. From the point of beginning where the county lines of San Luis Obispo, Kings and Kern Counties converge, the county line also being the township line between T.24S. and T.25S., in R.16E.;

(1) Then in a westerly direction along this county line for approximately 61.75 kilometers (38 miles) to the range line between R.10E. and R.11E.;

(2) Then in a southerly direction along this range line for approximately 23.6 kilometers (14.5 miles) to the second point of intersection with the boundary of the old Paso Robles land grant;

(3) Then following the boundary of the Paso Robles land grant, beginning in an easterly direction, to a point where it intersects the range line between R.11E./R.12E.;

(4) Then in a southeasterly line for approximately 25.8 kilometers (16.5 miles) to the point of intersection of the township line between T.29S. and T.30S. and the range line between R.12E. and R.13E.;

(5) Then in an easterly direction for approximately 9.6 kilometers (6 miles) to the range line between R.13E. and R.14E.;

(6) Then in a northerly direction for approximately 9.6 kilometers (6 miles) to the township line between T.28S. and T.29S.;

(7) Then in an easterly direction for approximately 30 kilometers (18 miles) to the township line between T.16E. and T.17E.;

(8) Then in a northerly direction for approximately 38.4 kilometers (24 miles) to the point of beginning.

Signed: August 30, 1983.

Stephen E. Higgins,
Director.

Approved: September 14, 1983.

David Q. Bates,
Deputy Assistant Secretary, (Operations).

[FR Doc. 83-27058 Filed 10-3-83; 8:45 am]
BILLING CODE 4810-31-M

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 251

[DoD Directive 4175.1]

Sale of Government-Furnished Equipment or Materiel and Services to U.S. Companies for Commercial Export

AGENCY: Office of the Secretary, DoD.

ACTION: Final rule.

SUMMARY: This rule is issued to provide policy, assign responsibilities within the Department of Defense, and prescribe procedures to implement section 30 of the Arms Export Control Act to authorize the sale of government-furnished equipment or materiel and services to U.S. companies for commercial export.

DATE: This rule was approved and signed by the Deputy Secretary of Defense on July 8, 1983, and is effective as of that date.

FOR FURTHER INFORMATION CONTACT: Mr. Robert D. Wise, Defense Security Assistance Agency, Washington, D.C. 20301, telephone (202) 697-8108.

SUPPLEMENTARY INFORMATION: Under Executive Order 12423, May 26, 1983, the President delegated his authority under section 30 of the Arms Export Control Act to the Secretary of Defense. This rule redelegates that authority, subject to the provisions of the rule, to the Secretaries of the Military Departments.

1. *Executive Order 12291.* The Department of Defense has determined that this rule is not a major rule because

it is not likely to result in an annual effect on the economy of \$100 million or more.

2. *Paperwork Reduction Act.* This rule does not impose a burden under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 et seq.

3. *Regulatory Flexibility Act.* The Under Secretary of Defense for Policy certifies that this rule shall be exempt from the requirements under 5 U.S.C. 601-612.

List of Subjects in 32 CFR Part 251

Sale of government-furnished equipment, Materiel, Government property, U.S. companies, Commercial export, Exports.

Accordingly, 32 CFR is amended by adding a new Part 251, reading as follows:

PART 251—SALE OF GOVERNMENT-FURNISHED EQUIPMENT OR MATERIEL AND SERVICES TO U.S. COMPANIES FOR COMMERCIAL EXPORT

Sec.

- 251.1 Purpose.
- 251.2 Applicability.
- 251.3 Policy.
- 251.4 Definition.
- 251.5 Procedures.
- 251.6 Responsibilities.

Authority: E.O. 11958 as amended by E.O. 12423, 22 U.S.C. 2751-2796c, Pub. L. 97-392, 96 Stat. 1963.

§ 251.1 Purpose.

This Part implements E.O. 11958 as amended by E.O. 12423 which delegates to the Secretary of Defense the functions conferred upon the President by Section 30, Chapter 2B, of Pub. L. 97-392; and provides policy, assigns responsibilities, and prescribes procedures.

§ 251.2 Applicability.

This Part applies to the Office of the Secretary of Defense, the Military Departments, the Organization of the Joint Chiefs of Staff, the Unified Commands, and the Defense Agencies (hereafter referred to as "DoD Components"). The term "Military Services," as used herein, refers to the Army, the Navy, the Air Force, and the Marine Corps.

§ 251.3 Policy.

(a) The Department of Defense executes the authority provided by Section 30, Chapter 2B, "Arms Export

Control Act," to sell to U.S. companies defense articles and defense services (hereafter also "items") in connection with proposed exports on a direct commercial basis pursuant to State Department license or approvals under 22 CFR 121.30 and 22 U.S.C. 2778-2779.

(b) Such sales may be authorized only if the following applies:

- (1) The items are of a type approved for foreign military sales (FMS);
- (2) Sale to a U.S. company under this part would simplify and expedite the direct commercial sale involved;
- (3) The items are of the type that would be supplied to the prime contractor as government-furnished equipment (GFE) or materiel (GFM) for manufacture or assembly into end items for use by the Military Services, and have in fact been supplied as GFE or GFM in connection with any past or present DoD procurement of such end items; and
- (4) The other provisions of this part are complied with.

§ 251.4 Definition.

Authorized Purchasers. A company incorporated in the United States as defined in § 251.4 (a) and (c) or in § 251.4 (b) and (c).

(a) The existing prime contractor for the specific end item with a DoD contract for final assembly or final manufacture in the United States of the end item for use by the Military Services.

(b) A known DoD-qualified producer of the end item to be used by the Military Services, or one considered by the commanding officer of the Military Department procuring activity to be a responsible contractor for final assembly or final manufacture in the United States of the end item for use by the Military Services, and which is not debarred, ineligible, or suspended for defense procurement contracts.

(c) A U.S. manufacturer which has an approved license under the International Traffic in Arms Regulations which provides for the use of GFE or GFM in the direct commercial export to a foreign country for the use of the armed forces of that country or international organization. The license shall identify the defense end item being sold and exported, the quantity and identification of concurrent and follow-on spares, end item delivery schedule, and name of the ultimate user.